



## MARBURY v. MADISON (1803)

**ORIGINS OF THE CASE** A few days before Thomas Jefferson's inauguration, outgoing president John Adams appointed William Marbury to be a justice of the peace. But the commission was not delivered to Marbury. Later, Jefferson's new secretary of state, James Madison, refused to give Marbury the commission. Marbury asked the Supreme Court to force Madison to give him his commission.

**THE RULING** The Court declared that the law on which Marbury based his claim was unconstitutional, and therefore it refused to order Madison to give Marbury his commission.

### LEGAL REASONING

Writing for the Court, Chief Justice John Marshall decided that Marbury had a right to his commission, and he scolded Madison at length for refusing to deliver it.

However, he then considered Marbury's claim that, under the Judiciary Act of 1789, the Supreme Court should order Madison to deliver the commission. As Marshall pointed out, the powers of the Supreme Court are set by the Constitution, and Congress does not have the authority to alter them. The Judiciary Act attempted to do just that.

Marshall reasoned that, since the Constitution is the "supreme law of the land, no law that goes against the Constitution can be valid."

**"If . . . the courts are to regard the constitution, and the constitution is superior to any ordinary act of the legislature, the constitution, and not such ordinary act, must govern the case to which they both apply."**



If an act of Congress violates the Constitution, then a judge must uphold the Constitution and declare the act void. In choosing to obey the Constitution, the Supreme Court did declare the Judiciary Act unconstitutional and void, and so refused to grant Marbury's request.

◀ Chief Justice John Marshall

### LEGAL SOURCES

#### U.S. CONSTITUTION

##### U.S. CONSTITUTION, ARTICLE III, SECTION 2 (1789)

"The judicial power shall extend to all cases . . . arising under this Constitution, the laws of the United States, and treaties made . . . under their authority."

##### U.S. CONSTITUTION, ARTICLE VI, CLAUSE 2 (1789)

"This Constitution, and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land; and the judges in every State shall be bound thereby. . . ."

#### RELATED CASES

##### FLETCHER v. PECK (1810)

The Court ruled a state law unconstitutional for the first time.

##### COHENS v. VIRGINIA (1821)

The Court overturned a state court decision for the first time.

##### GIBBONS v. OGDEN (1824)

The Court ruled that the federal Congress—not the states—had the power under the Constitution to regulate interstate commerce.



William Marbury

## WHY IT MATTERED

In 1803, interest in Marbury's commission was primarily about partisan politics. The fight was just one skirmish in the ongoing battle between Federalists, such as Adams, and Democratic-Republicans, led by Jefferson and Madison, which had intensified in the election of 1800.

When Jefferson won the election, Adams made a final effort to hinder Jefferson's promised reforms. Before leaving office, he tried to fill the government with Federalists, including the "midnight" justices such as Marbury. Madison's refusal to deliver Marbury's appointment was part of Jefferson's subsequent effort to rid his administration of Federalists.

Marshall's opinion in *Marbury* might seem like a victory for Jefferson because it denied Marbury his commission. However, by scolding Madison and extending the principle of judicial review—the power of courts to decide whether or not specific laws are valid—the Court sent a message to Jefferson and to the Congress that the judiciary had the power to affect legislation. The Marshall Court, however, never declared another act of Congress unconstitutional.

## HISTORICAL IMPACT

In striking down part of the Judiciary Act, an act of Congress, Marshall gave new force to the principle of judicial review. The legacy of John Marshall and of *Marbury* is that judicial review has become a cornerstone of American government. One scholar has called it "America's novel contribution to political theory and the practice of constitutional government." As Justice Marshall recognized, judicial review is an essential component of democratic government; by ensuring that Congress exercises only those powers granted by the Constitution, the courts protect the sovereignty of the people.

Perhaps more importantly, the principle of judicial review plays a vital role in our federal system of checks and balances. With *Marbury*, the judicial branch secured its place as one of three coequal branches of the federal government. The judiciary has no power to make laws or to carry them out. However, judges have an important role in deciding what the law is and how it is carried out.

In *City of Boerne v. Flores* (1997), for instance, the Supreme Court declared void the Religious Freedom Restoration Act of 1993. Members of Congress had passed the act in an attempt to change the way federal courts apply the First Amendment's Free Exercise Clause. The Supreme Court ruled that Congress does not have the authority to decide what the First Amendment means—in effect, to define its own powers. The Court, and not Congress, is the interpreter of the Constitution.

Through the 1999–2000 term, the Court had rendered 151 decisions striking down—in whole or part—acts of Congress. It had also voided or restricted the enforcement of state laws 1,130 times. That the entire country has with few exceptions obeyed these decisions, no matter how strongly they disagreed, proves Americans' faith in the Supreme Court as the protector of the rule of law.

## THINKING CRITICALLY

### CONNECT TO HISTORY

- 1. Comparing** Read encyclopedia articles about another Marshall Court decision, such as *Fletcher v. Peck*, *Cohens v. Virginia*, or *Gibbons v. Ogden*. Compare that decision with *Marbury* and consider what the two cases and opinions have in common. Write a paragraph explaining the major similarities between the cases.



SEE SKILLBUILDER HANDBOOK, PAGE R8.

### CONNECT TO TODAY

- 2. INTERNET ACTIVITY** [CLASSZONE.COM](http://CLASSZONE.COM)

Visit the links for Historic Decisions of the Supreme Court to research a recent Supreme Court decision involving judicial review of an act of Congress. Write a case summary in which you describe the law's purpose, the Court's ruling, and the potential impact of the decision.